

COMMONWEALTH OF KENTUCKY

BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

| | | |
|------------------------------------|---|----------------|
| AN INVESTIGATION INTO THE ELIMIN- |) | |
| ATION OF SWITCHED ACCESS SERVICES |) | ADMINISTRATIVE |
| DISCOUNTS AND ADOPTION OF TIME-OF- |) | CASE NO. 336 |
| DAY SWITCHED ACCESS SERVICES RATES |) | |

O R D E R

On June 25, 1990, in Case No. 90-057,¹ AT&T Communications of the South Central States, Inc. ("AT&T") filed a motion to equalize local switching access rates. MCI Telecommunications Corporation ("MCI") filed a response to AT&T's motion on July 24, 1990 and AT&T filed a reply to MCI's response on August 7, 1990. AT&T's motion, MCI's response, and AT&T's reply are attached and incorporated herein. On August 20, 1990, the Commission denied AT&T's motion as untimely, but noted that the issues merited investigation in a separate investigation.²

Accordingly, the Commission opens this investigation to determine whether:

1. Rates for local switching 1 and local switching 2 should be equalized.

2. Rates for all switched access services used to originate or terminate traffic in non-equal access end offices should be equalized.

¹ Case No. 90-057, The Tariff Filing of South Central Bell Telephone Company to Revise its Access Services Tariff.

² Id., Order dated August 20, 1990, page 8.

3. Time-of-day rates for switched access services should be adopted.

The time-of-day rates issue was not raised by AT&T, but is included in this investigation on motion of the Commission. All telecommunications service providers under the jurisdiction of the Commission that may be affected by the outcome of this investigation will be served with a copy of this Order and allowed adequate time to file a petition for intervention. These include local exchange carriers, interexchange carriers, resellers, and alternative operator service providers.

Having been otherwise sufficiently advised, the Commission HEREBY ORDERS that:

1. An investigation into switched access services discounts and time-of-day switched access services rates shall be established.

2. AT&T's motion, MCI's response, and AT&T's reply shall be attached and incorporated herein.

3. All local exchange carriers, interexchange carriers, resellers, and alternative operator service providers under the jurisdiction of the Commission shall be served with a copy of this Order and shall be allowed 30 days from the date of this Order to file a petition for full or limited intervention pursuant to 807 KAR 5:006, Section 3(8).

4. The following schedule of procedure shall be followed in this investigation.

a. Initial requests for information shall be due no later than December 21, 1990.

b. Responses to initial requests for information shall be due no later than January 18, 1991.

c. Prefiled testimony shall be due no later than February 8, 1991.


d. Supplemental requests for information shall be due no later than March 1, 1991.

e. Responses to supplemental requests for information shall be due no later than March 22, 1991.

f. A public hearing will be scheduled at a later time.

Done at Frankfort, Kentucky, this 4th day of December, 1990.

PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

RECEIVED

JUN 25 1990

PUBLIC SERVICE
COMMISSION

In The Matter of:

THE TARIFF FILING OF SOUTH CENTRAL
BELL TELEPHONE COMPANY TO REVISE
ITS ACCESS SERVICES TARIFF

)
) CASE NO. 90-057
)

MOTION OF AT&T
TO EQUALIZE LOCAL SWITCHING ACCESS RATES

AT&T Communications of the South Central States, Inc. (AT&T), by and through its undersigned counsel, hereby moves the Commission to enter an Order requiring South Central Bell Telephone Company (SCB) to eliminate the disparities in the rates for the local switching rate element contained in the SCB access tariff. In support of its Motion, AT&T shows as follows:

1. AT&T is duly authorized by this Commission to provide interexchange telecommunications service in Kentucky.
2. SCB provides local exchange access to AT&T and other long distance companies pursuant to access tariffs filed with and accepted by the Commission. In this proceeding, SCB has filed an Application to adjust certain of its access service rates.
3. Access charges paid to SCB and other LECs in Kentucky constitute a large proportion of every long distance company's cost of doing business. Therefore, disparate access rate treatment of any long distance company directly impacts that company's ability to compete.

4. SCB's approved access tariffs provide for disparate treatment of AT&T and its competitors by offering access services to long distance companies competing with AT&T at substantial reductions from the rates charged to AT&T. These reductions include:

- (a) A discounted rate for local switching service provided from equal access offices. The local switching rate element, LS1, is generally discounted by 35% compared to the rate for LS2 which is applicable to AT&T.
- (b) Discounted rates for all switched access services used to terminate to or originate traffic from non-equal access offices. This discount applies to the local transport, local switching, line termination and intercept access rate elements. The discounted rates for these rate elements are 55% less than those imposed on AT&T.

5. The access services described in 4(a) and terminating access services described in 4(b), provided at a discount to long distance companies competing with AT&T, are functionally equivalent to the access services provided to AT&T.

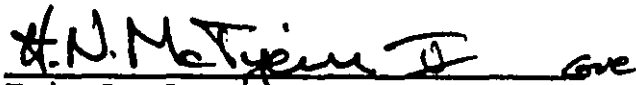
6. The aforementioned disparate treatment of AT&T and its competitors can neither be justified on the basis of cost differences nor public interest. Yet, these discounts provide an underlying cost advantage to AT&T's competitors.

7. The Commission can correct the aforementioned access rate disparities in this proceeding without harming either SCB or its subscribers, and without disadvantaging long distance companies competing with AT&T.

WHEREFORE, AT&T respectfully requests that the Commission take action to correct the aforementioned access rate disparities by issuing an order directing South Central Bell to file new access tariffs that:

- (a) Reflect identical rates for the LS1 and LS2 local switching rate elements.
- (b) Reflect elimination of discounts for all access services provided in connection with the termination of traffic to an end user.

Respectfully submitted,



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COMMONWEALTH OF KENTUCKY

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BEFORE THE PUBLIC SERVICE COMMISSION JUL 24 1990

In the Matter of:

PUBLIC SERVICE
COMMISSION

THE TARIFF FILING OF SOUTH CENTRAL)
BELL TELEPHONE COMPANY TO REVISE)
ITS ACCESS SERVICES TARIFF)

CASE NO. 90-057

**RESPONSE OF
MCI TELECOMMUNICATIONS CORPORATION
TO MOTION OF AT&T**

MCI Telecommunications Corporation ("MCI"), through its counsel, responds and objects to the Motion of AT&T Communications of the South Central States, Inc. ("AT&T") to "equalize local switching access rates." MCI asks the Commission to deny the Motion filed by AT&T on June 25, 1990 for the reasons set forth below.

To begin with, the alleged disparate treatment by AT&T is not created by South Central Bell Telephone Company's ("SCB") tariff filing in this proceeding. South Central Bell has not proposed changes in the discount for access service and the switching rate elements, LS1 and LS2, in the subject tariff filing. AT&T, through its Motion, is attempting to interject its own agenda into a proceeding in which South Central Bell's tariff filing is not the basis of AT&T's complaint. The Commission should deny AT&T's Motion on the grounds that this proceeding is not the appropriate case to consider these issues.

Furthermore, the issue of a discount for access rates was considered and decided by this Commission in at least four separate orders over the last six years. In each of these orders, the Commission determined or reaffirmed its decision to retain a discount on non-premium access. See Order, Case No. 8838, "An Investigation of Toll and Access Charge Pricing and Toll Settlement Agreements for Telephone Utilities Pursuant to Changes to be Made Effective January 1, 1984", pp. 41-44 (November 20, 1984) ("For all these technical reasons, the Commission has determined that an access discount equal to that directed by the FCC for interstate access is appropriate for OCCs on an intrastate, interLATA basis. However, as equal access, or Feature Group D ("FG-D") becomes available to the OCCs, the inferior access problems will no longer exist, and it is reasonable that the discount be eliminated in each central office as FG-D becomes available in that office."); Order, Case No. 8838 Phase III "An Investigation of Toll and Access Charge Pricing and Toll Settlement Agreements for Telephone Utilities Pursuant to Changes to be Made Effective January 1, 1984", pp. 4-5 (January 22, 1987); Order, Case No. 311, "Investigation of InterLata Carrier Billed Minutes of Use As a ULAS Allocator", pp. 26-29 (September 29, 1988); Order, Case No. 311, "Investigation of InterLata Carrier Billed Minutes of Use As a ULAS Allocator", pp. 6-7 (November 9, 1988). AT&T's Motion should be denied on the grounds that it fails to demonstrate any material change in circumstances since the Commission's adoption of this policy decision.


Moreover, AT&T's claim of disparate treatment because of the discount of the local switch rate element LS1, in comparison to the rate for LS2, is unfounded. The difference between the LS1 rate and the LS2 rate reflects the quality of access associated with each element. The LS1 element is a component of Feature Groups A and B (non-premium access); the LS2 element is a component of Feature Groups C and D (premium access). The rate distinction in local switching reflects the inferior quality of non-premium access. It does not, as AT&T suggests, reflect a cost differential in the provision of local switching. The rate changes advocated by AT&T would force other IXC's, like MCI, to pay the same rates as AT&T, yet receive inferior quality access. Under these circumstances, requiring equal rates for unequal value from disadvantaged carriers would be unfair and inequitable.

In a similar fashion, the assertion by AT&T that the access services provided to other IXCs are "functionally equivalent" to those provided to AT&T is unfounded. The non-premium access currently being discounted is inferior in quality to the premium access that AT&T has enjoyed since divestiture and continues to enjoy today. The lack of dialing parity and inability of competing carriers to offer universal "one-plus" origination gives AT&T an overall advantage which it continues to exploit, even in areas that have been converted to equal access.

In sum, the access discounts serve the public interest because they not only recognize the lower quality access for other IXCs, but promote effective competition between the dominant interexchange carrier - AT&T, and other, smaller IXC's, such as MCI. The discounts reflect the differences in access quality and make it economically feasible for IXC's like MCI to compete in all areas. MCI believes that the public interest is best served by a fully competitive long distance industry. The continued development of a competitive industry in Kentucky depends in no small part on the actions by this Commission, including those which serve to mitigate the inherent advantages possessed by AT&T solely as a result of its historical status and continued monopoly power. While the discounts, themselves, cannot create a fully equitable environment, they do serve an important role in promoting the development of effective competition.

WHEREFORE, for the foregoing reasons, MCI asks the Commission to deny AT&T's Motion to eliminate the discounts in access rates.

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BEFORE THE PUBLIC SERVICE COMMISSION AUG 7 1990

In the Matter of:

PUBLIC SERVICE
COMMISSION

THE TARIFF FILING OF SOUTH CENTRAL)
BELL TELEPHONE COMPANY TO REVISE) CASE NO. 90-057
ITS ACCESS SERVICES TARIFF)

REPLY OF AT&T

On June 25, 1990, AT&T filed a motion seeking the equalization of rates for the local switching rate elements (LS1 and LS2) in South Central Bell's (SCB) intrastate access tariff. MCI has asked the Commission to deny AT&T's Motion on the basis that this proceeding is not the appropriate case to make such an adjustment, that there has not been any material changes in circumstances since the Commission approved discounted access rates, and that the claim of disparate rate treatment is unfounded. MCI's request to deny the Motion of AT&T lacks merit and should be rejected by the Commission.

BACKGROUND

In its Motion, AT&T requested that the Commission correct some of the existing disparities in SCB's access tariff by taking the following actions:

- (a) Direct SCB to file new tariffs eliminating the difference between LS1 and LS2 access rate elements; and

- (b) Direct SCB to eliminate the 55% discount on all access rate elements for terminating access service.

Switched access is composed primarily of three elements: the CCLC, local switching, and local transport. All three elements are charged on both the originating and terminating ends of a call. In this docket, AT&T is seeking elimination of the rate disparity between the premium local switching rate paid by AT&T (LS2) and the premium local switching rate paid by other long distance companies (LS1) on both the originating and terminating ends. In addition, AT&T is seeking elimination of the terminating discount on all access rate elements in non-equal access offices. These access rate disparities should be eliminated because they result in providing other long distance carriers with an unjust and unwarranted competitive cost advantage over AT&T.

The LS1 rate is 35% less than the LS2 rate. In addition, AT&T's competitors obtain a 55% discount on all originating and terminating access rate elements in non-equal access end offices. In its Response, MCI confuses the original rationale for imposing the different discounts, and mixes the two when attempting to argue that the discounts should be retained. Accordingly, it is appropriate to address the merits of eliminating current access rate disparities separately.

A. The LS1/LS2 Rate Differential
Should Be Eliminated Because
There is No Difference in Cost.

The LS1 access rate element is applied to Feature Group A and B access and the LS2 access rate element is applied to Feature Group C and D access. The difference between the two rates was originally imposed to reflect the FCC's conclusion that the costs in providing local switching to AT&T as opposed to other long distance companies might vary. The FCC stated in its Third Report and Order in Common Carrier docket 78-72 that:

(i)f the average costs associated with different interstate switched services' use of local dial switching equipment vary, these differences should be reflected in the rate structure of this element in order to assure that there will be no unlawful discrimination in rates for functionally equivalent services. As a first approximation to achieving this goal we are requiring that exchange carriers establish separate charges for two categories of service. (Third Report and Order, pp. 6-7; emphasis added)

The FCC has subsequently recognized that there is no difference in the cost of provisioning the two switching arrangements and is phasing out the rate differential. Report and Order, Common Carrier Docket No. 87-721, adopted August 14, 1987. The difference in rates was initially based upon differences in cost. Thus, MCI's value arguments are not relevant to the Commission's decision regarding the appropriate level of LS1/LS2

pricing. Because the original cost justification for charging different prices for LS1 and LS2 access is no longer valid, the LS1/LS2 rate disparity should be eliminated in Kentucky.

B. The 55% Discount on Terminating
Access Services Should be Eliminated
in Non-Equal Access Offices.

In this proceeding, AT&T is also seeking elimination of the 55% discount applied to Feature Group A and B terminating access in non-equal access offices.¹ This discount was originally intended to reflect technical differences between Feature Groups A and B on the one hand and Feature Group C on the other. Because there are no differences on the terminating end, this discount should be eliminated for terminating access services.

The "lack of dialing parity and the inability of competing carriers to offer universal 'one-plus' origination" are the reasons asserted by MCI to support its argument to maintain the 55% discount. MCI misses the mark. Both these points relate to originating access and are not relevant to AT&T's request that only the terminating discount be eliminated. AT&T is NOT seeking elimination of the discount applied to originating access from non-equal access offices. Because the terminating access provided over all feature groups is functionally equivalent, the 55% discount should be eliminated on terminating access.

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This discount is automatically eliminated when an office converts to equal access.

C. The Prior Decisions of the Commission
 Support Elimination of the LS1/LS2
 Rate Differential and the 55%
 Terminating Access Discount.

The cases cited by MCI in its Response support the relief being sought by AT&T herein. First, it should be noted that in each case referenced by MCI, the Commission was addressing the 55% discount applied to all originating and terminating access service in non-equal access end offices. The Commission has not been previously asked to make a decision regarding the 35% difference between LS1 and LS2 rates.

In addition, as pointed out at page 2 of MCI's Response, the Commission stated in its November 20, 1984 Order in Case No. 8838: "for all these technical reasons, the Commission has determined that an access discount... is appropriate..." These orders also confirm that the 55% discount will be eliminated as equal access becomes available in the end office, or, in other words, when the "technical differences" have been eliminated. Thus, it appears that the basis for the discount was the perceived technical differences associated with various access arrangements available to AT&T and the other IXC's. Insofar as there are no technical differences between terminating Feature Group A/Feature Group B and terminating Feature Group C or D, there is no justification to apply a 55% discount to terminating access in non-equal access end offices.

CONCLUSION

This proceeding was initiated by SCB to adjust its Access Services Tariff. It is appropriate to consider any access adjustment in this proceeding that may apply to SCB. Significantly, SCB has not objected to AT&T's Motion -- either its procedural aspect or its substance. Therefore, this case constitutes a proper forum for the relief being sought by AT&T.

In addition to providing other long distance carriers with a competitive cost advantage over AT&T, the current access rate disparities serve as an economic disincentive for carriers to request equal access where it is not now available. The Commission can encourage competition in all areas of Kentucky by removing these discounts. Removal of the discounts will make equal access more attractive to other carriers, encourage them to request equal access arrangements from local exchange carriers and, thus, expand and enhance consumer choice for telecommunications services.

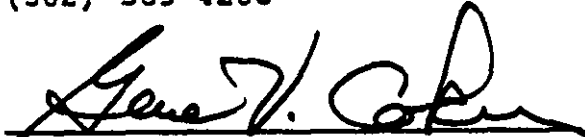
Based on all the foregoing reasons, MCI's request to deny AT&T's Motion is without merit and should be denied. The Commission should grant AT&T's Motion and proceed to eliminate both the LS1/LS2 rate differential and the 55% terminating discount in SCB's non-equal access end offices.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Eric L. Ison", followed by a small "GC" monogram.

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